INFORMATION ON CHINA.

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MEMORANDUM No. 12.

EXTRA-TERRITORIAL JURISDICTION IN CHINA.

October 21st, 1926.

Readers of Memorandum No. 11 on the subject of the Tariff Conference will recall that certain provisions of the treaty between Great Britain and China of 1902, generally known as the Mackay Treaty, and of the treaties on similar lines between Japan and China and the United States and China in the following year, aimed to achieve fiscal reform. By the same treaties the foreign powers concerned expressed their willingness to assist China in the path of judicial reform and "to relinquish extra-territorial rights when satisfied that the state of the Chinese law, the arrangements for their administration, and other considerations warrant" them in so doing. Amongst the progressive measures undertaken by the Manchus in what proved but an expiring effort to save the Dynasty, was the establishment of the Law Codification Commission in 1904, to which further reference is made below. At Versailles the question was raised by the Chinese Delegates and was listened to as sympathetically as the world issues at stake then permitted, while as a result of China's entry into the War and the Russian Revolution, extra-territorial jurisdiction is no longer exercised by Germany, Austria and Russia. At the Washington Conference the problem occupied a leading place. The resolution which was passed was as follows:

"The Governments of the above named powers (i e. the Powers represented at the Conference) shall establish a Commission (to which each of such Governments shall appoint one member) to inquire into the present practice of extra-territorial jurisdiction in China, and into the laws and the judicial system and the methods of judicial administration of China, with a view to reporting to the Governments of the several Powers above named their findings of fact in regard to these matters, and their recommendations as to such means as they may find suitable to improve the existing conditions of the administration of justice in China, and to assist and further the efforts of the Chinese Government to effect such legislation and judicial reforms as would warrant the several Powers in relinquishing, either progressively or otherwise, their respective rights of extra-territoriality;

"That the Commission herein contemplated shall be constituted within three months after the adjournment of the Conference in accordance with detailed arrangements to be hereafter agreed upon by the Governments of the Powers above named, and shall be instructed to submit its report and recommendations within one year after the first meeting of the commission;

"That each of the Powers above named shall be deemed free to accept or to reject all or any portion of the recommendations of the Commission herein contemplated, but that in no case shall any of the said Powers make its acceptance of all or any portion of such recommendations either directly or indirectly dependent on the granting by China of any special concession, favour, benefit, or immunity, whether political or economic."

Owing to delay in ratification by the French Government the Commission was only convened for December 12th, 1925 and did not in fact meet until January of the present year owing to interruption of railway communication with Peking by civil war.

It is now understood that a report or reports to the several Governments has been prepared and presumably publication will be made in due course. Meanwhile, without the least desire to attempt to prejudge the issue, it is thought that it may be helpful to summarise the subject for general information.

1. DEFINITION AND ORIGIN.

Extra-territorial jurisdiction in China, so far as British Subjects and American Citizens are concerned, is the exercise of Jurisdiction by the British Crown over British Subjects and the American Government over American Citizens in China in the exclusion of Chinese Jurisdiction. *Mutatis mutandis* this definition applies to similar rights enjoyed by other Powers. An American writer defines Extra-territoriality generally as "an exemption from the operation of local law, granted either by usage or by treaty, on account of the differences in law, custom and social habits of civilized nations from those of uncivilized nations."[1] This definition, however, is not quite satisfactory since the need, as in the case of China, may result from a conflict of civilizations giving rise to fundamental differences of legal conception.

Where China came in contact with her neighbours by land on the north the principle was recognised as early as the Treaty of Nerchinsk between Russia and China, signed in 1689. But in the south, where the maritime nations established contact, the adoption of the principle was of slower growth. This was due to the sincere desire especially of the British and the Americans to limit their demands to facilities for trade without interference with Chinese institutions or encroachment upon Chinese Sovereignty. That responsibility for the failure to secure this end did not lie with the foreign trader may be gathered from the pages of such works as "The Englishman in China" by Alexander Michie and "The English In China" by J. Bromley Eames a Barrister who practised for some years in the Consular Courts in China. Even more valuable testimony can be secured from "The International Relations of the Chinese Empire: The Period of Conflict 1834-1860" by H. B. Morse. Mr. Morse wrote as an American Citizen in the service of the Chinese Maritime Customs and therefore a Chinese public servant, who had enjoyed administrative experience at different points throughout China over a period of more than thirty years. Mr. Morse, after an exhaustive historical analysis, concludes that "the logic of events" compelled measures necessary to security of foreign person and property.

[1] Moore's "International Law", Vol. II at p. 593.

The Treaty of Nanking concluded in 1842 between Great Britian and China, made no specific mention of extra-territoriality, but provided for the appointment of Consular officers to reside at the five open ports, "to be the medium of communication between the Chinese authorities and the said merchants, and to see that the just duties and other dues of the Chinese Government. . . . are duly discharged by Her Britannic Majesty's subjects." General Regulations for the British trade at the five open ports were drafted in July, 1843, and No. 13 enacted that provision was to be made for the punishment of English and Chinese criminals according to the laws of their respective countries and at the hands of their respective officials.

In 1844, however, the principle of extra-territoriality was clearly laid down in the Treaty between the United States and China in terms which were subsequently adopted in the Treaty of Tientsin concluded between Great Britain and China in 1858 and Treaties from time to time concluded between China and other Powers.

In the Chefoo Convention of 1877 between Great Britain and China and in the Supplementary Treaty between the United States and China, signed at Peking, November 17, 1880, the application of the principle was somewhat amplified, Article IV of the latter Treaty being as follows:

"When controversies arise in the Chinese Empire between Citizens of the United States and subjects of His Imperial Majesty's, which need to be examined and decided by the public officers of the two nations, it is agreed between the Governments of the United States and China that such cases shall be tried by the proper official of the nationality of the defendant. The properly authorized official of the plaintiff's nationality shall be freely permitted to attend the trial, and shall be treated with the courtesy due to his position. He shall be granted all proper facilities for watching the proceedings in the interests of justice. . . . If he so desires, he shall have the right to examine and to cross-examine witnesses. If he is dissatisfied with the proceedings he shall be permitted to protest against them in detail. The law administered will be the law of the nationality of the officer trying the case." [1]

2. CHINA'S CASE FOR WITHDRAWAL OR MODIFICATION OF EXTRA-TERRITORIAL JURISDICTION.

China's case cannot be better stated than by adopting the following summary of the statement made at the Washington Conference, by Dr. Wang Chung Hui, President of the Commission on Extra-territoriality.[2]

"Extra-territoriality in China, said Dr. Wang, dated back almost to the beginning of China's treaty relations with foreign countries. It was clearly laid down in the treaty of 1844, between the United States and China, and similar provisions had since been inserted in treaties with other powers.

"These extra-territorial rights were granted at a time when there were only five treaty ports—that is, places where foreigners could trade and reside. Now there are fifty such places and an equal number of places open to foreign trade on China's initiative. This meant an over-increasing number of persons within China's territory over whom she was almost powerless. This anomalous condition had become a serious problem with which local administration was confronted and if the impairment of the territorial and administrative integrity of China was not to be continued, the matter demanded immediate solution.

"Dr. Wang said that he would point out some of the serious objections to the extra-territorial system;

"(a) In the first place, it is in derogation of China's sovereign rights, and is regarded by the Chinese people as a national humiliation.

"(b) There is a multiplicity of courts in one and the same locality, and the inter-relation of such courts has given rise to a legal situation perplexing both to the trained lawyer and to the layman.

"(c) Disadvantages arise from the uncertainty of the law. The general rule is, that the law to be applied in a given case is the law of the defendant's nationality, and so, in a commercial transaction between, say X and Y of different nationalities, the rights and liabilities of the parties vary according as to whether X sued Y first or Y sued X first.

"(d) When causes of action, civil or criminal, arise in which foreigners are defendants, it is necessary for adjudication that they should be carried to the nearest consular court, which may be many miles away; and so it often happens that it is practically impossible to obtain the attendance of the necessary witnesses, or to produce other necessary evidence.

"(e) Finally, it is a further disadvantage to the Chinese that foreigners in China, under cover of extra-territoriality, claim immunity from local taxes and excises which the Chinese themselves are required to pay. Sir Robert Hart, who worked and lived in China for many years, had said in his book, "These from the Land of Sinim": "The extra-territoriality stipulation may have relieved the native official of some troublesome duties, but it has always been felt to be offensive and humiliating, and has ever had a disintegrating effect leading the people, on the one hand, to despise their own Government and officials, and, on the other, to envy and dislike the foreigner withdrawn from native control."

"Until the system is abolished or substantially modified. Dr. Wang continued, it would be inexpedient for China to open her entire territory to foreign trade and commerce. The evils of the existing system had been so obvious that Great Britain in 1902, Japan and the United States in 1903, and Sweden in 1908 agreed, subject to certain conditions, to relinquish their extra-territorial rights. Twenty years had elapsed since the conclusion of these treaties, and while it is matter of opinion as to whether or not the state of

[1] For further detail see China Year Book for 1926 by H. G. W. Woodhead, C.B.E., at p. 769 et seq.

[2] China at the Conference, by Prof. W. W. Willoughby of John Hopkins University formerly legal adviser to the Chinese Republic.

China's laws has attained the standard to which she is expected to conform, it is impossible to deny that she has made great progress on the path of legal reform. A few facts would suffice for the present. A law codification commission for the compilation and revision of laws has been sitting since 1904. Five codes have been prepared, some of which have already been put into force; (a) The Civil Code, still in course of revision, (b) the Criminal Code, in force since 1912, (c) the Code of Civil Procedure, and (d) the Code of Criminal Procedure, both of which have just been promulgated; and (e) the Commercial Code, part of which has been put into force.

"These Codes, Dr. Wang said, have been prepared with the assistance of foreign experts, and are based on the principles of modern jurisprudence. Among the numerous supplementary laws special mention might be made of a law of 1918, called 'Rules for the Application of Foreign Laws,' which deals with matters relating to private international law. Under these rules, foreign law is given ample application. Then there is a new system of law courts established in 1910. The judges are all modern, trained lawyers, and no one can be appointed a judge unless he has attained the requisite legal training. These are some of the reform which have been carried out in China.

"Dr. Wang declared that the China of to-day was not the China of 20 years ago, when Great Britain encouraged her to reform her judicial system, and a *fortiori*, she is not the China of 80 years ago, when extra-territorial rights were first granted to the treaty powers. Dr. Wang said he had made these observations, not for the purpose of asking for an immediate and complete abolition of extra-territoriality, but for the purpose of inviting the powers to co-operate with China in taking initial steps toward improving and evenutally abolishing the existing system, which is admitted on all hands to be unsatisfactory both to foreigners and Chinese. It is gratifying to learn of the sympathetic attitude of the powers toward this question, as expressed by the various delegations at a previous meeting of this committee.

"In concluding, Dr. Wang asked, in the name of the Chinese delegation, that the powers now represented at this conference agree to relinquish their extra-territorial rights in China at the end of a definite period. In the meanwhile, he proposed that the above mentioned powers should, at a date to be agreed upon, designate representatives to enter into negotiations with China for the adoption of a plan for a progressive modification and ultimate abolition of the system of extra-territoriality in China, the carrying out of which plan was to be distributed over the above mentioned period."

3. CONSIDERATION OF CHINA'S CASE.

No one will deny that there are objections to any extra-territorial system; they are inherent and inevitable. Nearly all of Dr. Wang's objections are of this kind. Moreover, as applied to China, they are perhaps more theoretical than real. In the circumstances of the extra-territorial communities of China, the disadvantages of multiplicity of Courts and differences between the laws of defendants of different nationalities are not often productive of serious prejudice. The objection (d) relating to the distance of the nearest Consular Court is greatly exaggerated. Such cases are very few indeed, and it may be added that, when a British Subject is once delivered to the British Authorities, he is not allowed to escape, he is dealt with strictly according to Law, every opportunity is given to the complainant to present his case, that case is tried on the evidence, and the Court's decision is carried out. Dr. Wang himself would not claim that the same is universally or even generally true of Chinese administration.

Finally in connection with taxation, the whole history of the question discloses one long complaint of illegal imposition; and the objection is one relating more to the fiscal provisions of the Treaties and is quite capable of solution on any consideration or revision of these.

In order to test the validity of Dr. Wang's claim that China had made such progress as to warrant her in being permitted to rid herself of the Extra-territorial rights now possessed by foreigners, a Joint Committee of the British Chamber of Commerce and the China Association issued a questionnaire to a large number of British subjects of standing in different parts of China whose daily life and duties had brought them for many years past into close contact with the administration of justice in China and who could speak with practical knowledge as to its character. The questionnaire followed closely the statements made at Paris and Washington and included questions in respect of judicial procedure, maintenance of constitutional rights, application of codes of law, independence of judicial officers, impartiality of courts, condition of gaols, police administration and so on.

In general it may be said of these replies that, while they indicate a certain measure of progress, notably in Shansi, the general impression which they convey is that real progress is exceptional. Security of person and property appears to be no greater than it was twenty years ago. There is a new and developing consciousness of the individual's moral rights, but his legal rights have not, in practice, kept pace with this development. On the contrary in some parts of China it would appear that the individual is less certain of justice than he used to be. The use of corporal punishment as a method of extorting evidence is still widely prevalent. Although new courts have been brought into existence and new procedure has been adopted, the answers to the questionnaire show that in very few places are judges independent, and that in most military power and influence predominate. While there has been a certain amount of prison reform, and in several places the prisons that exist to-day are greatly superior to those that used to exist, there appears to be very little improvement in the police system, while police officials play an important part in the administration of justice. There are a number of lawyers of whom an increasing number are trained on modern lines. In some places they are allowed to plead, but the answers to the questionnaire do not tend to show that the influence of these new men has so far had much effect, or been allowed to have much effect, in raising the standards of justice.

The accumulation of evidence over a large area and the process of sifting by responsible people necessarily occupies considerable time Many of the foregoing conclusions are now some two to three years old and during that period so far from there being an improvement of conditions it has to be admitted that there

has been a serious decline. It is not only that there have been political assassinations, rapine, loot and devastating disorganization consequent upon civil war, but there has been also an increasing growth on the part of those in authority in the direction of the disregard of law and order. Within a few months two editors of Peking newspapers have been shot without trial, even without any charge being formulated. Extortions of a very grave order have been frequent. Prominent citizens have been arrested and threatened in order to bring pressure to bear to make so-called loans, either themselves or by means of institutions with which they are connected. Cases have even occurred where pressure has been brought to bear on foreign institutions through threats to Chinese working in association with them.

Conditions indeed are so serious that many prominent Chinese elect to live in the foreign settlements in the hope that if they cannot secure absolute protection, in the last resort they may at least enjoy the relative protection which results from publicity and public opinion. Few spectacles are more fraught with meaning than that afforded by Chinese Banks in the foreign settlements, whose main function is to serve as treasure houses immune from illegal process, imposing mansions owned by Chinese many of which are solely designed for sanctuary in periods of political crisis, and the influx of population in times of trouble.

The whole position it seems might be epitomized in much the same language as was employed by Mr. Morse writing of eighty years ago. "Important as is the form of law, still more important is the spirit of those charged with administration, whether it be of law in relation to individuals and their property, Municipal Government or discharge of outstanding public obligations." *

The testimony of foreign writers could be multiplied † but it is of more interest to reproduce the views of one of China's former leading statesmen Mr. Tang Shao Yi. Writing in the North China Daily News on the eve of the sitting of the Commission on Extra-territoriality Mr. Tang expressed himself as follows :

"The sanctity of the law courts is an elementary condition to the development of good government. In China, unfortunately a system has come into existence of certain individuals regarding themselves as superior to the courts. They not only cannot be subjected to judicial procedure, but they interfere with the operations of justice. They write letters to the judges making suggestions as to decisions. They insist upon the appointment of their henchmen as judges and order such judges to obey their dictates. They even hold courts of their own on the subterfuge that they are enforcing a martial law and throw men into prison without due process of law. The case of Mr. Eugene Chen is an instance of the operation of this system of military interference with the courts. The Ostroumoff case in Harbin was stopped only because a commission of foreigners is coming to China to investigate the courts. What difference does it make to the Chinese people whether such a commission comes or not; the courts exist not for the few foreigners in China but for the many Chinese and their operations must be designed to afford protection to the Chinese people. Those who grow so enthusiastic at the comings and goings of these commissions seem to forget that the sufferers from maladministration are not the foreigners but the Chinese people. Both the instances cited are of military interference with the law and until such instances cease to be possible there is no hope for the progressive development of courts of justice of this country. Even the highest officials, even the President himself, must be subject to the operation of the law through the courts of justice before we can even approach justice. To me this is more essential than that we shall have codes and model prisons to satisfy commissions to abolish extra-territoriality. Extra-territoriality is a matter of pride; my suggestions concern the very life of our people.

"The judiciary has to be reorganised. Trained, experienced judges have to be appointed. As suggested, the judges have to be made absolutely independent and the body of the law must be respected by all officials of the government. In former times, when the Magistrate was the judge, he was regarded as the father and mother of the people. His court and its decisions were respected. Of course, it must be admitted that some of their decisions would to-day appear to us to be lacking in the qualities of mercy with which justice must be mixed, but it is ridiculous to suggest that we have no tradition of respect for the courts. During the Republic, judges and judicial officers have been known to accept bribes. There is only one solution to that and it is that bribery shall be made a capital offence for both the bribe-giver and the bribe-taker until we have extirpated this cancer from our body politic.

"It is important here to reiterate the point of view that in rewriting our codes, in remodelling our courts, in improving our prisons, our point of view should not be to satisfy any commissions appointed under the Washington Treaties, but to benefit the Chinese people. It is absurd, for instance, for the Ministry of Justice to ignore the Chinese people and their needs and then to rush mandates and telegraphic messages about the country, ordering sudden and not well-planned improvements to impress these commissioners. What we need is a thoroughly considered plan which will give the Chinese people a judicial system and a law which shall protect them and their property. That cannot be done in a day and therefore no attempt should be made to accomplish it in a day. We can request the Washington Conference Commission to wait until we have satisfied ourselves that any criticism will be unjustified. As a matter of fact, no system can be suitable for the Chinese people which is not good enough for the foreigners living in China."

4. A PROPOSED SOLUTION.

As is only to be expected, there is a body of irresponsible opinion in China which calls for the withdrawal of Extraterritorial Jurisdiction forthwith. Informed Chinese opinion, however, realises, or at least hitherto has realised, the need of hastening slowly. At Washington Dr. Wang anticipated a gradual process extending over a period of years. Definite suggestions on the same lines are set out by various Chinese writers but most recently perhaps in "Studies in Chinese Diplomatic History" by Ching Lin Hsia B. Sc. (Glas.) M.A. (Edin.) Ph. D. (Edin). Quoting from the 1925 edition of his work the following is the statement of his proposals :

"Abolition will be best brought about by degress. Here are the proposed stages :

"1. The Complete promulgation of the new codes and the establishment of the modern courts.

"2. The employment of foreign judges to sit with Chinese judges in these modern courts to administer Chinese law in cases where foreigners are involved.

"3. The encouragement to litigants in mixed cases to bring their suits before the national tribunals.

"4. The relinquishment by the consular courts in the interior of their civil jurisdiction in favour of the territorial courts.

* International Relations of the Chinese Empire : Period of Conflict 1834-1860 : at p. 111.

† See "Occidental Interpretation of the Far Eastern Problem (Harris Lectures 1925)" by H. G. W. Woodhead, C.B.E., and others at p. 123 et seq., or pp. 19 and 20 of the Journal for January 1926 of the Central Asian Society where Mr. Woodhead's Lecture on Extra-territoriality was also delivered.

"5. The relinquishment by the consular courts in treaty ports of their civil jurisdiction over their subjects in favour of the national courts of justice.

"6. The preparation for the relinquishment of British criminal jurisdiction both in treaty ports and in the interior.

"Thus China's recovery of her territorial jurisdiction may be an accomplished fact. Those stages may extend over a period of ten years from the date when the complete new codes are promulgated to the total recovery of China's territorial jurisdiction."

Clearly it is not possible to go all the way with Mr. Hsia. Especially is it not possible to set a term to the period in which the process must take place. But it is possible to make some constructive suggestions which do not differ in principle from the views of this and other Chinese writing with appreciation of conditions.

One suggestion follows closely Mr. Hsia. It involves the creation of mixed Courts at the four principal Treaty Ports in which should sit a Chinese and Foreign Judge with equal powers. From this Court there would be a Court or Courts of Appeal similarly constituted. Such Courts should administer Chinese Law and be concerned in the first instance in cases in which Chinese are defendants. This would constitute the first stage. The second stage would be the gradual taking over by such Courts of jurisdiction over foreigners, commencing with the more simple matters of legal relationship. The third stage would be reached when the Chinese Judges were in a position to assume control.

An alternative system has as its fundamental principle the administration of Chinese Law in all Foreign Courts. The proposed stages towards abolition of extra-territorial Jurisdiction are as follows :—

"1 Chinese laws (approved by the Treaty Powers) administered in Foreign cases by Foreign Judges, with Chinese Judges as spectators.

"2. Foreign and Chinese Judges jointly trying such cases with equal powers, in accordance with Chinese Law.

"3. Chinese Judges trying such cases, with Foreign Judges acting as Assessors."

The latter plan, first advocated in the Peking and Tientsin Times, has commanded considerable support, notably that of Dr. Schurman late United States Minister to China and the American Journal of International Law. On the other hand, opinion of members of the legal profession practising on China seems to prefer the former proposal which has certain very real advantages. In the first place it does nor depend upon the completion of China's codes with the approval of the Treaty Powers. It would come into operation immediately. It allows, too, for the gradual growth of China's law as a result of judicial experience as opposed to pure theory. In one of the early decisions of the Supreme Court in Peking it was laid down that the principle to be followed was to apply any law which might exist, then to proceed on custom and finally in the absence of legislation or custom to decide cases according to legal principle. In some quarters this dictum has been criticised. But it would appear to have a very considerable value and to point the way to the establishment of Chinese Law ultimately on a thoroughly broad basis. Applied by such a Mixed Court as is proposed it could not but result in a valuable body of case law.

The scheme would also afford opportunity for consideration as to what if any bodies of foreign law might be applied either by way of interpretation or extension of Chinese Law. The debt of modern commercial Law in England and on the Continent to the Law Merchant provides an obvious analogy. Furthermore the existence of such mixed Courts would prove more valuable because a more practical training ground for the Chinese Judiciary.

It is not intended by these proposals to depreciate the valuable work which has been done by sincere and able men in preparation for jurisdictional change. Every responsible foreigner in China desires to assist towards the attainment of her legitimate ambitions. But it cannot be said that any such fundamental change of outlook has occurred in the rulers of the country as makes less necessary the precautions and protective safeguards which the logic of events forced in 1842. Moreover any scheme must result in disaster which does not take full account not only of existing conditions but of the universal experience of mankind in the development of law and legal institutions.

The history of a country's law reflects its social developments. It follows that at any given time the legal system should be suited to the people for whose welfare it is designed. China forms no exception to this rule. Until recent memory the people was definitely a patriarchal people and the country in the main a country of village communities. In the great provincial towns the powerful Guild system kept alive the traditional sentiment. Laws were of the customary type. Such laws of the legislative type as existed were mainly directed to criminal matters as is characteristic of all communities at this stage of development. It is true that scattered through the Ta Ching Lu Li, promulgated in the 17th Century, there are certain notions of civil as opposed to criminal law but these do not amount to a serious contribution to the legal requirements of an advanced community. Twenty years ago in the course of a Judgment in a leading case decided in H.M. Supreme Court, Mr. Justice Bourne, an authority on China, found occasion to remark as follows :

"We in China are thrown back on a very few written rules-the Penal Code-the greater part of which cannot be applied to a Christian community, upon local customs and upon the Judge's conscience."

From the point of view of the mass of the people conditions have not materially changed, and only by the slow process of development of legal ideas can an adequate legal system be evolved, that is to say a system which is suited to the genius of the race and at the same time is reasonably adequate to the complicated needs of modern industrial and commercial life. Legislation in bulk by code cannot meet the requirements of the situation in a satisfactory manner for the reason that the change is too sudden to meet with the approval of the people at large who though inarticulate make for a view by sheer mass inertia.

Though therefore valuable work has been accomplished on legislative lines which might be made to apply in some of the larger centres, no such universal application of law has been accomplished, or is even in sight, as would justify any serious consideration of placing American Citizens throughout China within Chinese Jurisdiction.

Another difficulty is that of sanctions. It is not intended to embark upon a technical analysis from the juristic standpoint. But to submit that the foundation of judicial administration is the power to enforce the Law throughout the Country, is merely to state a matter within the general comprehension. The prime need is for stable government whose authority can function effectively. And yet something more is required than a Government whose Writ runs through the land. It must also be a moral force, a scourge of venality and a guarantee of judicial independence. A Government which is often not even in a position to control the capital city of the State clearly fails to satisfy the most elementary definition of the sanction which is necessary to a strong administration of Justice. The foundation, therefore, of the present claim of China has still to be laid.

Meanwhile the schemes which have been touched upon permit of progress in the path of judicial reform without waiting upon the attainment of political stability. Either plan involves Foreign co-operation. If, however, a solid foundation is to be laid this is unavoidable, and it should be recognised from the Chinese and Foreign points of view as an inevitable necessity and a great opportunity.